

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:12-CV-592 -FL**

HEATHER SULLIVAN,

Plaintiff,

v.

KIGHT'S MEDICAL CORP. and JOHN A.
KIGHT,

Defendants.

**CONSENT ORDER OF DISMISSAL
WITH PREJUDICE**

WHEREAS, Plaintiff, Heather Sullivan ("Plaintiff"), by and through counsel, filed a Complaint against Kight's Medical Corp. ("Kight's Medical") and John A. Kight ("Kight") on September 12, 2012 asserting claims for wrongful discharge and retaliation in violation of the Americans With Disabilities Act ("ADA"), wrongful discharge in violation of public policy, and failure to pay wages and overtime in violation of the Fair Labor Standards Act ("FLSA") and the North Carolina Wage and Hour Act ("NCWHA"); and

WHEREAS, Defendant Kight timely responded to the Complaint and filed a Motion to Dismiss all of Plaintiff's claims against him in his individual capacity; and

WHEREAS, in response to Kight's Motion to Dismiss, Plaintiff averred that her Complaint did not assert claims for wrongful discharge and retaliation in violation of the ADA or a claim for wrongful discharge in violation of public policy against Mr. Kight individually and that the Motion to Dismiss was moot to the extent it sought dismissal of those claims; and

WHEREAS, in its Case Management Order, the Court ordered the parties to confer and enter into a consent order of dismissal "to the extent plaintiff's complaint could be read to

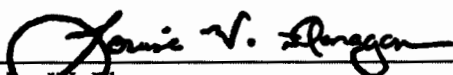
advance claims plaintiff disavows in its response to the motion to dismiss, where plaintiff's dismissal of same reasonably could follow. . .” in order to narrow the issues to be decided in the pending motion to dismiss; and

WHEREAS, the Parties hereby consent to dismissal of the following claims as against Kight individually: (1) First Cause of Action for wrongful discharge under the Americans with Disabilities Act (“ADA”); (2) Second Cause of Action for retaliation in violation of the ADA, and (3) Fifth Cause of Action for wrongful discharge in violation of public policy; and

WHEREAS, Plaintiff does not consent to dismissal of her Third Cause of Action for violation of the FLSA or her Fourth Cause of Action for Violation of the NCWha against Kight individually and asserts that Kight's Motion to Dismiss should be denied with respect to those claims for the reasons set forth in Plaintiff's Brief in Opposition to Motion to Dismiss;

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff's First Cause of Action, Second Cause of Action, and Third Cause of Action as against Defendant Kight individually are hereby dismissed **with prejudice**.

This the 25th day of April, 2013.



Louis W. Flanagan
United States District Court Judge